

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

DAVID HAROLD EILOLA,

Petitioner,

v.

CIVIL ACTION NO. 2:16-cv-11572

RALPH TERRY,

Respondent.

ORDER

Pending before this court is the respondent's Motion to Dismiss [ECF No. 11]. The Motion was referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). On June 6, 2017, the Magistrate Judge submitted the Proposed Findings and Recommendation [ECF No. 30] recommending that the court **GRANT** the Motion to Dismiss [ECF No. 11] and **DISMISS without prejudice** the Petition for Writ of Habeas Corpus [ECF No. 1].

Neither party has filed objections to the Magistrate Judge's findings and recommendation. A district court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." § 636(b)(1). The court is not, however, required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge

as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). As the parties have not filed objections in this case, the court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and orders judgment consistent with the findings and recommendation. Accordingly, the Motion to Dismiss [ECF No. 11] is **GRANTED** and the Petition [ECF No. 1] is **DISMISSED without prejudice**.

The court **DIRECTS** the Clerk to send a copy of this Order to Magistrate Judge Aboulhosn, counsel of record, and any unrepresented party.

ENTER: June 28, 2017



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE